

number of finally rejected claims. In view of the above, it is submitted that entry of the above amendments is in order and such is respectfully requested.

Initially, applicants wish to make of record the personal interview conducted between Examiner Nguyen and the undersigned on August 26, 1999. The supervisor for Ms. Nguyen, Examiner Yu, also attended the interview. In the initial portion of the interview, arguments were presented with respect the newly added feature of the claimed invention as to the article being in the form of a block. In response to these arguments presented regarding the "block" limitations in the claims, the examiners took the position that the particular shape of the claimed article was not a patentable distinction. Also discussed was the subject matter of claim 5 directed to the method of producing a block article relative to the teachings of the Kitamaru et al patent, it being urged that the patent did not teach compressing the material as claimed. The examiners were not convinced as to this distinction for purposes of patentability. It is desired to thank the examiners for the courtesies extended during the interview.

In the Action, claims 1, 3 and 5-13 were rejected under 35 USC § 102(b) as being anticipated by the cited patent to Kitamaru et al. In making this rejection, it was asserted with respect to claims 1, 3, 5-8 and 9-13 that the noted portions of the Kitamaru et al patent teach an oriented crystallized UHMWPE molded article which has the characteristics as claimed. With respect to article claims 10-13, it was asserted that the additional recitations are directed to method limitations rather than product limitations. Reconsideration of this rejection in view of the above claim amendments and the following comments is respectfully requested.

Following the statement of the rejection, the examiner responded to the claim amendments and arguments as submitted in the previous Amendment where the claims were

amended to recite a "block" and it was argued that such distinguishes over the sheet or film of the cited Kitamaru et al patent. In response, the examiner asserted that "block" does not distinguish over that taught by the patent since there are no parameters or structural limitations recited for the "block" which would tend to distinguish over film or sheets. In other words, it appeared that the examiner asserted that the term "block" by itself did not differentiate from a sheet or film without some further limitation.

In response to these assertions, it is still the position of the applicants that a "film" or "sheet" is not encompassed within the meaning of the word "block." The assertion of the examiner that "film or sheet constitutes a very thin block" is not based on a common sense meaning of the term. According to such a meaning, the word "block" represents an article having a sufficient thickness or a certain profile.

In any regard, the word "block" as set forth in the claims has been further defined by the amendments herein. Specifically, the dimension of the claimed polyethylene structure has been set forth, that is, by reciting that the block has a thickness range of 5 to 10 mm in a direction perpendicular to the compression plane.

It is submitted that the recitation of a "block" having the dimensions now claimed, among other things, distinguishes the claims from the "film" described in the Kitamaru et al patent. In this regard, it is to be specifically noted that the thickness of the "film" according to the Kitamaru et al patent is about 1.5 mm as is set forth on column 4, lines 23-24 thereof.

Thus, it is submitted that the molded blocks according to the present invention are patentably distinguished from the articles as taught by the cited Kitamaru et al patent in at least the four important respects as set forth in the previous Amendment.

Additionally, in the subject Action, the examiner responded to the arguments contained in the previous Amendment that the cited Kitamaru et al patent does not teach articles having an orientation of crystal planes in a direction parallel to the compression plane as presently claimed. In so doing, the examiner asserted that by having the articles according to the patent be extended or stretched, these articles are subjected to compression in forming a thin film and have some orientation parallel to the film plane. Thus, the examiner concluded that the articles of the patent meet the limitations of the claims.

With respect to the "compression" according to the present invention and the "stretching (drawing)" disclosed in the Kitamaru et al patent, the position that "stretching method necessarily involves the application of pressure to compress the polyethylene into a thin film" is an inaccurate interpretation of the disclosure. It is unclear where a compression pressure is applied in the stretching process. According to the stretching method, the film plane, which is recognized as the compression plane by the examiner, is free of any pressure, and does not constitute the compression plane. In the field of molding, it is known that a compression molding method is a significantly different molding method from a stretching method, and one of ordinary skill can clearly distinguish one from the other.

During the above-described interview, it was asserted by the examiner that the teachings at column 3, lines 23-25 of the patent where it is stated "Further, rolling and inflation apparatuses known in the art can be used for polyethylene films" discloses rolling which would

produce compression. However, it is submitted that the examiner's assertion with reference to this description at column 3, lines 23-25 of the patent is not proper. For properly interpreting this disclosure, the preceding sentence should be considered, that is, "For example, a conventional continuous drawing equipment may be used for stretching polyethylene fibers and films." Namely, the description of "rolling and inflation apparatuses" is the example of the "continuous drawing equipment used for stretching." Therefore, the rolling method is one of stretching methods, not a compression method according to claim 5 of the subject application.

In summary, it is submitted that the molded block according to claims 1, 3 or 9 is distinctive from the film or sheet prepared by the stretching (drawing) method. With respect to the method claims 5-8 according to the present invention, as explained in the above, the compression method is not involved within the stretching (drawing) method, the method claims also distinguish over the cited patent. With respect to the artificial joint invention according to claims 10-13, there has not been a showing as to how an artificial joint can be manufactured from a film or sheet, an artificial joint is a shaped or designed block, and is not a film or sheet.

For the reasons stated above, withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of claims 1, 3 and 5-13 as amended over the cited Kitamaru et al patent are respectfully requested.

In view of the foregoing, it is submitted that the subject application is now in condition for allowance and early notice to that effect is earnestly solicited.

In the event this paper is not timely filed, the undersigned hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Deposit Account

No. 01-2340, along with any other additional fees which may be required with respect to this paper.

Respectfully submitted,

ARMSTRONG, WESTERMAN, HATTORI,  
McLELAND & NAUGHTON

A handwritten signature in black ink, appearing to read "Donald W. Hanson", written in a cursive style.

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